

REMARKS

Claims 1-40 are all of the pending claims. Dependent claims 41 and 42 have been canceled, while the recitations of these claims have been added to independent claims 1 and 31. Accordingly, this amendment does not raise any new issues. Dependent method claims 33 and 34 remain withdrawn from consideration.

Allowable Subject Matter

Claims 3, 6, 9, 12-30, and 35-40 are allowed.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 2, 4, 5, 7, 8, 10, 11, 31, 41, and 42 are rejected under 35 U.S.C. § 103(a) as being as being allegedly unpatentable over Darby (US 5,491,909) in view of Darby et al. (US 5,370,133), and further in view of Grim et al. (US 5,329,705). Claims 32 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Darby '909 in view of Darby '133 and Grim, and further in view of Kellerman et al. (US 5,799,414).

As an initial matter, the recitations of dependent claims 41 and 42 have been added to independent claims 1 and 31, respectively. With respect to amended independent claims 1 and 31, Applicant respectfully requests that the Examiner withdraw the rejection at least because the combination of Darby '909, Darby '133, and Grim does not reasonably teach or suggest all of the claims' recitations. For example, the combination of Darby '909, Darby '133, and Grim does not teach or suggest the claimed medical shoe having *three separably removable* layers, wherein the out sole circumferential counter prevents each of the plurality of layers from shifting within the out sole cavity when the layers are stacked in each of different orders.

The Examiner identifies the inner sole assembly 52, lower air bladder 64, and resilient inner sole 66¹ as corresponding to the recited three separably removable insole layers. However, as pointed out to the Examiner during the personal interview on November 18, 2004, the layers of Grimm's inner sole assembly 52 are not *separably removable* so that the out sole circumferential counter prevents each of the plurality of layers from shifting within the out sole cavity when the layers are stacked in each of the different orders.

That is, the individual removable areas 68 of Grim's upper resilient area 66 (See Grimm at Fig. 2) cannot correspond by themselves to one of the recited plurality of separably removable insole layers. If the removable areas 68 were removed from the inner sole assembly 52, the circumferential counter would not prevent the removable areas from shifting within the out sole cavity when the insole layers are stacked in each of the different orders. In fact, even if all of the removable areas 68 were removed together from the inner sole assembly 52 in an attempt to provide a separably removable layer, a circumferential counter would not prevent the removable areas 68 from shifting within the out sole cavity *if the removable areas 68 were the bottom of three layers*. Instead, separated removable areas 68 would shift within the counter.

As such, Applicant respectfully requests that the Examiner withdraw the rejection of independent claims 1 and 31. In addition, Applicant respectfully requests that the Examiner withdraw the rejections of dependent claims 2, 4, 5, 7, 8, 10, 11, and 32 at least because of their dependency from one of claims 1 and 31.

¹ See Office Action dated March 7, 2005 at page 2, and Grimm at Figs. 2 & 3.

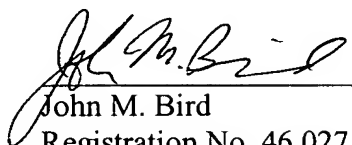
AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/019,669

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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